

Your Name: Shannon Marie McClough  
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 Phone Number: 925-432-2901  
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 Pro Se Plaintiff

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

Division   ☒ San Francisco   ☐ Oakland   ☐ San Jose   ☐ Eureka

Shannon Marie McClough	Case Number <u>21-cv03933-SK</u>
Plaintiff,	<b>FIRST - AMENDED COMPLAINT</b> (1) CALIFORNIA LAW AGAINST DISCRIMINATION; (2) AMERICANS WITH DISABILITIES ACT OF 1990, AS CODIFIED, 42 U.S.C. § 12112 to 12117  <b>DEMAND FOR JURY TRIAL</b>  Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
vs.	
University of California Berkeley	
and DOES 1-8, all of whose true names are	
unknown, INCLUSIVE,	
Defendant.	

**PARTIES**

Name:            Shannon Marie McClough  
 Address:        2236 Ridgecrest Way, Pittsburg, CA 94565  
 Telephone:     925-432-2901

Name: University of California Berkeley  
Address: 1111 Franklin Street 12<sup>th</sup> Floor, Oakland, CA 94604  
Telephone: 800-207-1710

### **JURISDICTION**

1. My case belongs in federal court

**X** under federal question jurisdiction because it involves a federal law or right.  
AMERICANS WITH DISABILITIES ACT OF 1990, AS CODIFIED, 42 U.S.C. § 12112 to  
12117 and CALIFORNIA LAW AGAINST DISCRIMINATION;

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### **VENUE**

**X** a substantial part of the events I am suing about happened in this district.

### **INTRADISTRICT ASSIGNMENT**

a. Because this lawsuit arose in Alameda County, it should be assigned to the Northern  
*Division* of this Court.

### **STATEMENT OF FACTS**

Plaintiff Shannon McClough, 2236 Ridgecrest Way, Pittsburg, California  
94565, allege the following:

#### **I. NATURE OF THE ACTION**

1. This is an action for relief from employment discrimination in violation of California Law Against Discrimination, Americans with Disabilities Act, and Equality Act.
2. I allege that Defendant University of California Berkeley, (collectively, “Defendants”), unlawfully discriminated against the plaintiff on the basis of my disabilities, including harassed and retaliated against me.
3. I further allege that Defendant policies, practices, and decisions—all arising from the UC Berkeley “WAY” they established and enforced had a disparate impact upon me based on my cancer.

- 1 4. I further allege that Defendant denied me equal compensation based on cancer.
- 2 5. I seek injunctive and declaratory relief, compensatory damages, punitive
- 3 damages, liquidated damages, and costs as remedies for violations of my rights.
- 4

## 5 **II. THE PARTY**

- 6 6. Shannon McClough is an African American female with a BA/AA degree in
- 7 Management and Human Resources, along with over 17 years HR experience. I
- 8 worked as a career Benefits Analyst 2 for Defendants, from approximately
- 9 6/27/16 to 9/18/20, and COVID Site Tester temporary from 9/29/20 to present,
- 10 but ending soon.
- 11 7. Upon information and belief, Defendant University of California, is an
- 12 education institution that maintains 10 campuses employing approximately
- 13 200,000 individuals. Defendant University of California, Defendant UCB
- 14 operates in Berkeley, California and all or most of the events alleged herein
- 15 occurred while employed by Defendant in that office.
- 16 8. At all times relevant herein, Defendant UCB had at least fifteen employees, and
- 17 was therefore an “employer” within the meaning of Title VII.
- 18 9. Defendant UCB is also an “employer” within the meaning of the California Law
- 19 Against Discrimination, Americans Disability Act, and Equality Act.
- 20 10. Defendant University of California Berkeley is liable for the acts of their
- 21 employees.
- 22 11. Plaintiff Shannon McClough is informed and believe and thereon allege that at all
- 23 time relevant herein, the defendant were responsible in some manner of the
- 24 occurrences and injuries alleged in this complaint.
- 25

## 26 **III. JURISDICTION AND VENUE**

- 27 12. This Court has jurisdiction of Plaintiffs’ federal law claims pursuant to 28
- 28

1 U.S.C. § 1331, as this case involves questions of federal law.

2 13. This Court has supplemental jurisdiction over the related state law claims  
3 pursuant to 28 U.S.C. § 1367(a) because those claims form part of the  
4 same case or controversy under Article III of the United States Constitution.  
5 Plaintiff state law claims share all common operative facts with their  
6 federal law claims, and the parties are identical. Resolving Plaintiff  
7 federal and state claims in a single action serves the interests of judicial  
8 economy, convenience, consistency, and fairness to the party.

9 14. Venue is proper in, and Defendants are subject to the personal jurisdiction  
10 of, this Court because Defendants maintain facilities and business operations in  
11 this District, and all or most of the events giving rise to this action occurred in  
12 this District. 28 U.S.C. § 1391(b); 42 U.S.C. § 2000e-5(f)(3).

13  
14 **IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

15 15.I timely filed charges of discrimination with the United States Equal  
16 Employment Opportunity Commission (“EEOC”) and Department of Fair  
17 Employment and Housing Enforcement Division, on Civil Rights. On or around  
18 May 29, 2020, the DFEH issued me Notices of Right to Sue.

19 16.I have timely filed this action and have complied with all administrative  
20 prerequisites to bring this lawsuit.

21 **V. FACTUAL ALLEGATIONS**

22 17. At all times material to this action, Plaintiff Shannon McClough were  
23 employed by Defendants as Benefits Analyst 2 in Defendants’ University of  
24 California Berkeley office.

25 18. As part of the job, Plaintiff Shannon were responsible to interact with internal  
26 and external professionals to provide departments, faculty and staff with a  
27 broad range of benefits related services. Processed and managed FMLA and  
28

1 Leaves of Absence requests. Collaborated on communications and resources on  
2 current, new and/or amended benefits programs. Maintained confidentiality of  
3 personnel data.

4 19. In or around June 2016, Sharon Johnson became the supervisor of Plaintiff  
5 Shannon McClough in the Benefits Department.

6 20. In or around August 2016, I provided a medical note to Sharon Johnson,  
7 informing her I had breast cancer and need to be excused from work 2 to 3  
8 weeks for surgery on September 1, 2016. After learning I was recently  
9 diagnosed of cancer during a routine mammogram. Sharon Johnson approved  
10 the leave.

11 21. In or around September 2016, I returned to work and shared with supervisor  
12 Sharon Johnson I need multiple radiation treatments and take hormonal  
13 therapies 5 years or possibly for life.

14 22. In or around October 2016, I began radiation treatments for 26 sessions through  
15 December while working and training in the department. I was denied a good  
16 faith interactive process and denied a reasonable accommodation.

17 23. In or around November 2016, supervisor Sharon began adding more workload  
18 on to me while doing radiation treatments stating she didn't have anyone else to  
19 do the work.

20 24. In or around November 2016 to February 2017, Katie C. Jackson who is also  
21 employed by the defendant made a derogatory comment across the office were  
22 many overheard her state she didn't care if I had cancer and didn't care I was  
23 doing cancer treatments repeatedly. She pressed for me to leave the office to  
24 pick up a Denny's breakfast at that moment in a threatening tone. Another  
25 employee asked her to calm down because of her aggressive behavior. Katie  
26 continued to repeat she didn't care about my cancer. Katie repeatedly  
27 confronted me about my work schedule. Katie would ask why I wasn't working  
28

1 8 hours, why am I late and demand I return to working 8 hours per day  
2 immediately, including asking me am I done with treatments to return to a  
3 regular schedule. Katie in a hostile tone asked me why I take 30 minute lunch  
4 breaks and requested to return to 1 hour because there is no such policy. Date of  
5 hire, Sharon allowed me to take half hour meal breaks and same with others in  
6 our department.

7 25. Between approximately November 2016 and February 2017, co-worker Sheila  
8 Vanderberg -Taliaferro is also employed by the defendant routinely made  
9 derogatory comments across the office asking if I were in pain or sick again  
10 from cancer treatments which one is it today, when I wasn't feeling well.

11 26. On more than one occasion Sheila would state how tired she was of hearing I  
12 wasn't feeling well.

13 27. Between approximately October 2018 and January 27, 2020, Sheila repeatedly  
14 harassed or threatening me to shut up, shhh and be quite, including telling me  
15 she didn't want to hear a sound, voice or word coming from me, and writing on  
16 eraser board shhh at my desk before arriving to the office.

17 28. Sharon and Labor Relations never reprimanded Katie and Sheila for their  
18 behavior, nor did they ask them to stop making these comments because they  
19 kept at it.

20 29. I complained to Labor Relations about Sheila and Katie statements and  
21 behavior. Each time, the defendant dismissed the complaints.

22 30. On December 26, 2016, my probation period ended.

23 31. In or around January 2017, supervisor Sharon added 110 departments to  
24 manage LOA/FML. Sharon and co-worker Elysee Paige Moore a retired  
25 employee from the defendant, asked to meet with me to discuss more work will  
26 be added, although I removed my jacket and both noticed the burns underneath  
27 my right arm. Sharon never asked about my well-being or how painful and  
28

1 tiring the treatments were. Both Sharon and Elyse stated I must take on the  
2 workload because my new hire probation period is still in effect. I feared for  
3 termination, if not.

4 32. In or around March 2017, supervisor Sharon Johnson announced at a team  
5 meeting she was hiring two Benefits Analyst 2, and one Administrative III to  
6 help with the workload. I complained to Sharon to reduce my workload for  
7 feeling overwhelmed. I pleaded how sore and tired my body became from the  
8 cancer treatments. Sharon stated she would post the positions as soon as  
9 possible.

10 33. In or around June 2017, supervisor Sharon Johnson announced at a team  
11 meeting she received nearly 500 applicants, but didn't like or wasn't qualified.  
12 Sharon continued on to say the workload will remain the same for me.

13 32. In or around August 2018, I met with Peggy Huston Chief Operation  
14 Officer who is employed with the defendants' to launch an investigation against  
15 Sharon Johnson if not, I have no other option to fill a discrimination charge to  
16 EEOC.

- 17 1. Sharon Johnson interfered with the hiring process for me to leave her  
18 department while enduring harassment, discrimination and retaliation.
- 19 2. Alicia Martinez who is employed by the defendants' admitted during the  
20 investigation she notified Sharon Johnson of all internal positions I applied.
- 21 3. Sharon Johnson stated she only intervene to provide references. Sharon went on  
22 to state "if I wasn't happy in her department, then she should help me find  
23 another position to leave" (transfer).
- 24 4. I never was contacted by any of the positions applied.
- 25 5. I confidentially contacted a hiring manager Ana Sanchez who work for the  
26 defendant, and suggested to not seek recruitment for an interview, because of  
27 the unease feeling of Sharon interfering with my progressing in the company.
- 28 6. In or around August 2018, I thought the interview was confidential for a second

1 round.

- 2 7. Sharon Johnson informed me - I wasn't hired for the position because I  
3 answered one of the questions in correctly. Sharon verbatim stated "Shannon  
4 didn't know what to do, if I didn't know the answer to a question". I asked  
5 Sharon how did she know I didn't get the position because I haven't heard  
6 back. Sharon stated trust her, I didn't get the position. The next day I received  
7 an email my application no longer considered.
- 8 8. Sharon Johnson was notified she was being investigated, and then her behavior  
9 changed for the worse against me. Sharon dislike for me began to show more  
10 and more.
- 11 9. Sharon began having unannounced meetings with me and Labor Relations to  
12 critique my work. I asked Sharon are you trying to fire me. Sharon shrugged  
13 her shoulders and looked at me in what do you think manner and walked away.  
14 My work was in order and Sharon was upset about that too.
- 15 10. Katie C. Jackson bragged to coworkers in the department stating she will do  
16 anything to protect Sharon. Katie also provided to the investigator, I never used  
17 the words "I want to live, health issues and heavy workload" during a few  
18 meetings with other witnesses to Sharon Johnson. Katie denied also she was a  
19 childhood friend of Sharon Johnson after repeatedly admitting to the  
20 department her eldest sister dated Sharon's deceased brother in the past.
- 21 11. On December 7, 2018, Euphemia Thomopoulos Employee Labor Relations who  
22 were an employee of the defendants' concluded her investigation against  
23 Sharon Johnson of no wrong doings of violations of Reasonable  
24 Accommodation, Compensation policies, and allegation has been blocking the  
25 Plaintiff advancement within the University. Euphemia went on to say we do  
26 things the UC Berkeley "WAY", along with anyone who worked with UC in  
27 the past will return at a higher pay rate; regardless, of experience and education.  
28 Euphemia provided an example – a gardener leaves UC and rehired into HR



1 without experience or education will be paid at a higher rate than someone with  
2 15 years' experience and education such as me. Euphemia stated after speaking  
3 with the hiring managers, they all said I had no experience in Human Resources  
4 is why I wasn't contacted.

5 12.I experienced more/worse harassment and retaliation after the conclusion of the  
6 investigation.

7 13.In or around September 2018, I filed EEOC/DFEH complaint against my  
8 manager Sharon Johnson and UC Berkeley because of the discrimination,  
9 harassment, and retaliation I have experienced in the Benefits  
10 Department.

11 14.In or around October 2018, I was removed from work on disability.

12 15.In or around November 2018, I returned to work with restrictions 2 days off per  
13 week through end of year for medical appointments.

14 16.In or around November 2018, Sharon and Clarity White Labor Relations who  
15 work for the defendant requested a meeting to discuss the investigation and to  
16 do an interactive process for the current medical note. During the meeting  
17 Sharon and Clarity stated they cannot offer reasonable accommodation.  
18 Euphemia and disability management both stated the same to me. Sharon  
19 shouted abruptly, nobody trained her how deal with employees with a serious  
20 health condition. Sharon was upset at me because the cancer treatments makes  
21 me sleepy and tired. I stated during my lunch break, I take naps on the 2<sup>nd</sup> floor  
22 at an unused desk to get through the day. Sharon said, "Oh my God! Shannon  
23 can't stay wake for 8 hours, this is crazy! I can't believe she's too tired after  
24 cancer treatments". Three days later the area where I took naps were  
25 disassembled.

26 17.In or around January 2019, Sharon added more workload onto me. I was taking  
27 on 242 departments solo. I reminded Sharon it's too much, but she refused to  
28 make any changes. Sharon stated she didn't have anyone else to do the work

1 and can't find any qualified candidates to hire.

2 18. In or around May 2019 Benefits Department moves to new location at  
3 University Hall at 2199 Addison Street #129, Berkeley, CA. I requested "**not**"  
4 to be seated near or share a cubicle with Katie and Sheila to Sharon. Sharon  
5 denied the request.

6 19. In or around August 2019, I returned to work from five months disability.

7 20. On another occasion, less than one hour of arrival to work after gone for 5  
8 months, Sheila walks up to my desk and said "Shannon I do not want to hear a  
9 sound, word or your voice" in a threatening tone and walked away. Others in  
10 the office overheard.

11 21. On another occasion, less than two hours of return to work after gone for 5  
12 months, I overheard Katie saying Shannon stinks at our shared cubical.

13 22. The more I complained, the more action was taken against me and my  
14 complaints went unresolved and were never addressed. In fact, my manager  
15 Sharon Johnson, who I have complained to numerous times and who is  
16 personally close to Katie Jackson, one of my co-workers who has victimized  
17 me, forced me to share a cubicle with Katie Jackson and another, two people  
18 who she knew routinely discriminated against and harassed me. I raised this  
19 issue again with her and asked her if I could work from one of the many open  
20 desks. She told me no and that I needed to work in the cubicle she assigned.

21 23. On January 23, 2020, just before 3 p.m., I believe Katie Jackson tampered with  
22 my water. I believe this because earlier in the day, I saw Katie Jackson leaving  
23 my desk quickly, and I overheard her asking Yvette Escobar if I left my key to  
24 access my snacks and water bottles desk drawer. Yvette Escobar said, "Yes, yes  
25 she did." I returned to my desk and removed the key.

26 24. Later, I accidentally left the key in my drawer again and walked away. When I  
27 returned, I noticed a white powdery substance and a red cut balloon or wrapper  
28

1 near my desk. I also noticed Katie Jackson staring at the floor where I was  
2 sweeping up. Katie Jackson had also been watching me drink my beverages,  
3 which I thought it was weird.

4 25. When I drank my water that afternoon, my mouth became numb, my hands  
5 began to tingle, and I became dizzy. I immediately told Yvette Escobar who  
6 work for the defendants', about how I felt and that I thought someone put  
7 something in my water. Yvette Escobar, as she was looking over at Katie  
8 Jackson, asked me if the room was spinning. Aidaly Cintron who work for the  
9 defendants' approached me about a work-related issue and saw I was not  
10 feeling well. Both she and Yvette Escobar asked me if they should call 9-1-1. I  
11 declined, but I do not know why because I needed to be helped to my car by my  
12 co-worker Ruby Thomas around 3:20 p.m. I drove home unsafely shortly after.

13 26. In on around January 23, 2020, I e-mailed Sharon Johnson and Labor Relations,  
14 Theresa McLemore who worked for the defendants, about the incident, but I  
15 did not receive a response.

16 27. The next day I called out sick from work because I still felt awful with  
17 hangover symptoms. Sharon Johnson responded to my e-mail after, stating she  
18 did not know I was ill and would forward my e-mail to Labor Relations. She  
19 gave me no other instructions. She did not inquire any further about Katie  
20 Jackson. She took no steps whatsoever to protect me from Katie Jackson.

21 28. I returned to work on Monday, January 27, 2020, I went to my shared cubicle  
22 area. Approximately 7:50 a.m., Katie Jackson arrived, and I immediately  
23 became terrified, fearing for my life. It was shocking Sharon Johnson did not  
24 take any steps to address Katie Jackson tampering with my water, instead  
25 permitting Katie Jackson to come to work and sit mere feet from me without  
26 any investigation whatsoever. She did not even separate us.  
27  
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1 29. As soon as Katie Jackson arrived, she started right in. She kept asking the me  
2 about and commenting about a plant I moved. I told her I removed it because it  
3 was evidence and told her to sit down as she was standing over me. She kept  
4 asking. Then I told her I knew she put something in my drink that made my  
5 body spin out of control and that thinking back, I believed she had been doing  
6 this for a while and this time she put too much in and went too far. I also told  
7 her I believe she had been putting something in my protein powder too. Katie  
8 Jackson just laughed. She never denied doing any of it.

9 30. Katie Jackson was standing over me, closely invading my space, and mocking  
10 me. She was very intimidating to me especially given what she did to me just  
11 days before. I did not threaten her. I did want her to stop bullying and harassing  
12 me and directed my comments to that. Considering how UC Berkeley and  
13 Sharon Johnson did nothing to protect me at any time, I had no choice but to  
14 use my words the way I did and to notify the authorities.

15 31. A few minutes later, UC Berkeley officer Hoskins arrived and I filed a formal  
16 complaint against Katie Jackson, explaining I feared for my life because she  
17 was spiking my water with some unknown drug or chemical. I even save the  
18 water as evidence because they wouldn't taken.

19 32. I waited around all day for Sharon Johnson to show for work to discuss why she  
20 took no action to protect me from Katie Jackson. But, Sharon Johnson did not  
21 show.

22 33. I received a call on February 6, 2020 from Sgt. Nicole Miller demanding my  
23 toxicology report. I was surprised because she called my personal cell. Sgt.  
24 Nicole Miller never provided an answer to how she came across my personal  
25 cell number and denied providing my mangers the toxicology report without  
26 permission. After suffering from being drugged or poisoned, I was tested.  
27 While the test did not detect drugs in my system, I did not receive a full panel.  
28

1 In fact, the test only looked for a few basic drugs, such as cocaine. The test did  
2 not include many other chemicals or herbs that could have been used to poison  
3 me.

4 34. Around two weeks later, I spoke with HR Investigator Gabriel Suarez and told  
5 him everything I expressed above. I also explained I had complained to Sharon  
6 Johnson about Katie Jackson's work performance on January 10, 2020, that I  
7 had been experiencing some of the poisoning symptoms since then, and believe  
8 Katie Jackson had been tampering with my water and poisoning me somehow. I  
9 began feeling ill, feeling tired, getting headaches, and was out of sorts.

10 35. In or around February 2020, I was placed on administrative leave pending the  
11 investigation into me defending myself from Katie Jackson; Katie Jackson was  
12 not put on leave pending the investigation into whether she tried to poison me.  
13 And now, the intent is to suspend me without pay, simply for defending myself  
14 and complaining. I am still in shock and experiencing distress about how the  
15 entire situation has been mishandled, including action being taken against me,  
16 the true victim in all of this.

17 36. I am equally shocked that when I have complained about how Katie Jackson  
18 and others have discriminated against, harassed, bullied, and retaliated against  
19 me, nothing has been done to protect me, but action has been taken against me.  
20 The reasons for suspending me are dubious, especially considering Sheila  
21 Taliaferro has actually engaged in physical violence against a co-worker and  
22 was not terminated or suspended. I am being singled out.

23 37. My co-workers have routinely made derogatory comments about me having  
24 cancer and bullied me. I complained and complained, but nothing was done to  
25 prevent their discriminatory, harassing, and bullying behavior, emboldening  
26 them to continue their misconduct.

27 38. Also, because of my cancer, I asked for an accommodation through a decreased  
28

1 workload, consistent with my medical restrictions. Instead, my workload was  
2 increased. I asked to telecommute full time consistent with my medical  
3 restrictions; part time was only permitted. I sought lateral transfers and  
4 promotions; I was blocked by management and the facility recruiter.

5 39. On March 11, 2020, Eugene Whitlock Vice Chancellor of Human Resources  
6 who work for the defendant, and Richard Lau Director retired employee who  
7 worked for the defendant, met with the me to state I falsely accused a co-  
8 worker of wrong doing because they had accessed my medical record blood test  
9 from their campus sergeant without my permission, and declared no drugs or  
10 chemical were found. I asked why wasn't Katie and I separated when I first  
11 notified you? They answered the University didn't know who to forward my  
12 complaint for assault. As a result of a false accusation, Eugene stated that I  
13 should be reprimanded because Katie and Sheila are afraid/fear to work with  
14 me.

15 40. On April 11, 2020, I returned to work after investigation. Carrie Ann Colton  
16 Director Human Resources stated she will not relocate my desk, that I will  
17 remain seated near Katie and Sheila. Carrie also stated a recommendation for 5  
18 day suspension without pay or I can leave and the complaint will go away. If I  
19 stay, it will remain on my employee record for 5 years.

20 41. In or around June 2020, Plaintiff, Shannon receives a phone call from John  
21 Stevens Director and supervisor of Sharon Johnson to state he received a Right  
22 to Sue notice from the Department of Fair Employment & Housing, and cannot  
23 allow for me to continue to work with his team. John stated he spoken with  
24 Eugene and he agree of offering 6 months pay to walk away, and they will  
25 maintain my benefits through end of year 2020. John went on to say "Shannon  
26 can find another job easily during that time, and to care for my terminal ill  
27 husband too". John offered one week to think about the offer.  
28

1 42. I rejected the offer and stated I need my job and benefits. I am 57, a black  
2 female with health issues, along with my husband dying, it's not a good time to  
3 start over. John said that's fine but when we return to the office you will  
4 continue to sit near Katie and Sheila. We will not relocate your desk. John also  
5 stated he wouldn't want to work with those two who keeps tormented him, why  
6 should I want to stay coercion/intimidate me to take the offer.

7 43. In or around May 2020 to August 2020, I asked my manager Sharon to place an  
8 order an office chair, keyboard and mouse like she did for the other team  
9 members working from home due to the pandemic. Sharon asked me to order  
10 my own and directed me to forms and classes I need to complete. I made  
11 numerous follow-ups and complaints of not receiving the office items, per  
12 Sharon directive.

13 44. In or around August 2020, Benefits department had a team zoom meeting and  
14 John Stevens joined us, I asked where my chair I have been waiting for months  
15 is. John stated he didn't approve it and neither did Sharon is why you haven't  
16 received a chair. Sharon then admitted she never approved a chair for me, but  
17 kept me running around chasing a chair that never existed.

18 45. In or around August 2020, I received a call from One WorkPlace for delivery of  
19 a chair on 8/26/20. I emailed Sharon to say a chair is being delivered thank you.  
20 The date of delivery was cancelled. I contacted One WorkPlace inquiring why  
21 no delivery. I was informed UCB contacted them to do not deliver the chair to  
22 Shannon McClough until further notice.

23 46. On September 16, 2020, I received the office chair, after numerous complaints  
24 of back and wrist pain, although I never received the ergo keyboard and mouse.

25 47. On September 18, 2020, I was informed my position is eliminated indefinite.  
26 (Terminated) Return the Defendant laptop, office chair and badge.  
27  
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- 1 48. On September 29, 2020, I began working at the defendant COVID testing site  
2 temporary to maintain benefits for medical reasons.
- 3 49. I submitted many qualifying application at the University that were no longer  
4 considered after one or two days. One position applied as a Benefits Analyst 2  
5 on another Berkeley campus. Application was denied within 24 hours.
- 6 50. On February 19, 2021, I received a call from Ashley Campos who work for the  
7 defendant at University Health Services. Ashley left an employment  
8 opportunity message to call back. As a result, Ashley won't return my calls or  
9 respond to emails. Therefore, the defendant continues to retaliate after they  
10 received a Right to Sue notice and removed me from the Benefits department.
- 11 51. I have experienced discrimination, harassment, and retaliation from the  
12 defendant for over four years and have complained repeatedly about it. I was  
13 discriminated against and harassed because I had cancer, was denied a good  
14 faith interactive process, denied a reasonable accommodation, and retaliated  
15 against.
- 16 52. My co-workers have routinely made derogatory comments about me having  
17 cancer and bullied me. I complained and complained, but nothing was done to  
18 prevent their discriminatory, harassing, and bullying behavior, emboldening  
19 them to continue their misconduct.
- 20 53. Also, because of my cancer, I asked for an accommodation through a decreased  
21 workload, consistent with my medical restrictions. Instead, my workload was  
22 increased. I asked to telecommute full time consistent with my medical  
23 restrictions; part time was only permitted. I sought lateral transfers and  
24 promotions; I was blocked by management and the facility recruiter, and then  
25 terminated for filing a formal complaint with EEOC/DFEH.  
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**VI. CLAIMS FOR RELIEF**

**FIRST CLAIM FOR RELIEF**

**Disability Discrimination (Disparate Impact) in Violation of  
California Discrimination Law Article 12940 (a)**

54. Plaintiff incorporate by reference as if fully set forth herein the allegations contained in paragraphs 1 through 83, above.

78. Article 12940 (a), prohibits employment practices that discriminate against persons on basis of their physical disability, mental disability and medical condition.

79. Plaintiff is informed and believe and thereon allege that Defendant UC Berkeley “WAY” policy and/practice had an adverse and disproportionate impact on her because of disability, Cancer.

80. Defendant UC Berkeley “WAY” practice was neither manifestly job-related nor consistent with business necessity. Less discriminatory alternatives existed to achieve Defendant stated business purposes.

81. As a direct, legal and proximate result of the discrimination, I have sustained, and will continue to sustain, economic and emotional injuries, resulting in damages in an amount to be proven at trial.

82. Defendant unlawful actions were intentional, willful, malicious, and/or done with reckless disregard to my right to be free from discrimination based on Cancer.

83. I am entitled to reasonable costs of suit.

**SECOND CLAIM FOR RELIEF****Disability Discrimination (Hostile Work Environment) in Violation of  
California Discrimination Law Article 12940 (a)**

84. I incorporate by reference as if fully set forth herein the allegations contained in paragraphs 1 through 53, above.

85. I was subjected to harassment by Defendant and employees, including Sharon Johnson, Katie C. Jackson and Sheila Vanderberg-Taliaferro, because of my disability, Cancer.

85. Plaintiff were subjected to verbal and written conduct, as well as an UC Berkeley "WAY" policy, by Defendant and employees, including Mrs. Johnson, Mr. Smith, Mr. Whitlock, and Carrie Ann Colton Director Human Resources who work for defendant.

86. Defendant and employees conduct was not welcome by me.

87. Defendant and employees conduct was undertaken because of my disability, cancer.

88. The conduct was so severe or pervasive in Plaintiff position would find her work environment to be hostile or abusive.

89. Plaintiff believe her work environment to be hostile or abusive as a result of the Defendant and employees'.

90. Management level employees knew, or should have known, of the abusive conduct. I provided management level personnel, including Mrs. Johnson, Mrs. White, and Mr. Lau, with information sufficient to raise a probability of disability harassment in the mind of a reasonable employer. Moreover, the harassment was so pervasive and open that a reasonable employer would have had to have been aware of it. Indeed, management level employees were themselves complicit in the abusive conduct.

1 91. Defendants did not exercise reasonable care to prevent harassment in the  
2 workplace on the basis of national origin, and did not exercise reasonable  
3 care to promptly correct any harassing behavior that did occur.

4 92. As a direct, legal and proximate result of the discrimination, I have  
5 sustained, and will continue to sustain, economic and emotional injuries,  
6 resulting in damages in an amount to be proven at trial.

7 93. Defendant unlawful actions were intentional, willful, malicious, and/or done  
8 with reckless disregard to Plaintiff right to be free from discrimination based  
9 on disability.

10 94. I am entitled to reasonable costs of suit.

11 **THIRD CLAIM FOR RELIEF**

12 Retaliation in Violation of  
13 California Discrimination Law Article 12940 (a)  
14

15 95. I incorporate by reference as if fully set forth herein the allegations contained  
16 in paragraphs 1 through 83, above.

17 96. California Labor Code section 230(e) prohibits an employer from  
18 discharging or retaliating against an employee because of his or her status as  
19 a victim of crime or abuse, provided that the victim provides notice to  
20 employer of the status or the employer has actual knowledge of the status.  
21

22 97. I made informal and formal complaints to Defendant and employees  
23 opposing Defendant unlawful, discriminatory employment practices based  
24 on disability and cancer.

25 98. As a result of my complaints, Defendant and employees took materially  
26 adverse actions against me, including, but not limited to, issuing disciplinary  
27 warnings, such as counseling and coaching forms; threats of termination;  
28

reprimands by supervisors; and instituting position eliminated specifically at me because the defendant received a Right to Sue notice.

99. Defendant adverse actions constituted retaliatory workplace harassment.

100. Defendant retaliatory actions were sufficient to deter a reasonable person from engaging in protected activity under California Discrimination Law.

101. As a direct, legal and proximate result of Defendant retaliation, I have sustained, and will continue to sustain, economic and emotional injuries, resulting in damages in an amount to be proven at trial.

102. I am entitled to reasonable costs of suit.

### **FIFTH CLAIM FOR RELIEF**

Discrimination in Violation of

THE AMERICANS WITH DISABILITIES ACT OF 1990,

AS CODIFIED, 42 U.S.C. § 12112 to 12117

103. I incorporate by reference as if fully set forth herein the allegations contained in paragraphs 1 through 83, above.

104. The Americans with Disabilities Act of 1990, makes it unlawful for an employer “to discrimination against people with disabilities based on cancer.

105. Likewise, the Americans with Disabilities Act requires that organizations with 15 or more employees comply with ADA guidelines. Employers must offer accommodations that do not cause “undue hardship” to the business to any employee who has a disability as defined by the ADA.

106. The Americans with Disabilities Act of 1990, makes it unlawful for an employer “denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable

1 accommodation to the physical or mental impairments of the employee or  
2 applicant.

3 107. Defendant discriminated against me by treating me differently from my  
4 coworkers, including in departments assignment because of my disability  
5 with cancer.

6 108. My cancer was the determining factor and/or a motivating  
7 factor in Defendant actions.

8 109. As a direct, legal and proximate result of the discrimination, I have  
9 sustained, and will continue to sustain, economic damages to be proven at  
10 trial. As a result of Defendant actions, I have suffered emotional distress,  
11 resulting in damages in an amount to be proven at trial. I further seeks  
12 compensatory and punitive damages and all other injunctive, declaratory,  
13 and monetary relief available for discrimination at trial.

14 110. Defendant unlawful actions were intentional, willful, malicious, and/or  
15 done with reckless disregard to my right to be free from discrimination  
16 based on Cancer.

17 111. I am entitled to reasonable costs of suit.

18  
19  
20 **DECLARATORY RELIEF ALLEGATIONS**

21 112. A present and actual controversy exists between Plaintiff and Defendant  
22 concerning my rights and respective duties. I contend that Defendant  
23 violated her rights under the California Law Against Discrimination, the  
24 American Disability Act, and Equality Act. I am informed and believe and  
25 thereon allege that the Defendant deny these allegations. Declaratory relief  
26 is therefore necessary and appropriate.

27 113. I seek a judicial declaration of the rights and duties of the respective  
28

parties.

### **INJUNCTIVE RELIEF ALLEGATIONS**

114. No plain, adequate, or complete remedy at law is available to me to redress the wrongs addressed herein.

115. If this Court does not grant the injunctive relief sought herein, I will be irreparably harmed.

### **PRAYER FOR RELIEF**

WHEREFORE, I pray for relief as follows:

1. For a declaration that Defendant actions, policies, and practices as alleged herein are unlawful;
  2. For lost wages and all other compensation denied or lost to me by reason of Defendant unlawful actions, in an amount to be proven at trial;
  3. For compensatory damages for my emotional pain and suffering, in an amount to be proven at trial;
  4. For liquidated damages;
  5. For interest on lost wages, compensation, and damages, including pre- and post-judgment interest and an upward adjustment for inflation;
  6. For an order enjoining Defendant from engaging in the unlawful acts complained of herein;
116. For such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

☒ Plaintiff demands a jury trial on all issues.

Respectfully submitted,

Date: \_\_\_\_\_ Sign Name: \_\_\_\_\_  
Print Name: Shannon Marie McClough

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